

## CHAPTER XIII - PARKS AND RECREATION AND OPEN SPACES

### Article 1. - General

**Secs. 13-1—13-10. Reserved.**

### Article 2. - Parks and Open Space Lands

#### Part A. - Generally

##### **Sec. 13-11. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Open space land* means any undeveloped or unimproved piece of property or any portion thereof, owned by the town, that requires little or no active maintenance. The definition of open space land shall include, but not be limited to, land left in its natural, undisturbed state, agricultural land for which development rights have been alienated in perpetuity, land areas for wildlife habitat, passive recreation, groundwater recharge and scenic preservation, and land acquired by the town from subdividers of land pursuant to the town's zoning regulations.

*Park* means any developed or improved piece of real property, or any portion thereof, owned by the town, that is used primarily for active recreational, sporting or ceremonial activity and that requires active maintenance. The definition of a park shall include, but not be limited to, ballfields, golf courses, tennis and basketball courts, pools, playgrounds, schoolyards, civic and military monuments, picnic pavilions, and recreational ponds.

(Ord. No. 07-01, §§ 1.1, 1.2, 7-10-2001)

**Cross reference**—Definitions generally, chapter 1 § 1-2 in this code book.

##### **Sec. 13-12. Classification of property.**

- a) The classification of a piece of property as either a park or open space land shall depend on such property's actual use at the time of the classification and not its intended use.
- b) It is the intent of this article that different portions of the same piece of property may be classified differently pursuant to the definitions stated in this article.
- c) The town council shall differentiate, when necessary, those properties, or portions thereof, that shall be considered parks and those properties, or portions thereof, that shall be considered open space lands, in accordance with this article. The town council shall change the classification of any property, or portion thereof, whose classification no longer complies with such property's actual use.

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- d) This article shall not apply to any property owned by the town that is neither a park nor open space land, including, but not limited to, the town hall complex, the physical services complex, and the Mattabesset gun range, all of which shall be under the general jurisdiction of the town council.

(Ord. No. 07-01, §§ 1.3—1.6, 7-10-2001)

**Sec. 13-13. Insurance.**

Groups or organizations, other than town and board of education groups and others receiving waivers recommended by the recreational service department, wishing to utilize park or open space land facilities must provide the town manager with proof of adequate public liability insurance, naming the town as an additional insured, and must further provide an indemnity agreement indemnifying the town against all loss for personal injury or property damage resulting from the use of such facilities.

(Ord. No. 07-01, § 11, 7-10-2001)

**Sec. 13-14. Liability and penalty.**

- a) The town shall not be liable for the loss of property or the damage to property of persons using any parks or open space lands.
- b) Failure to abide by the rules and regulations of this article, or rules established under § 13-21, shall subject the violator to immediate removal from such park or open space land. In addition, any person who shall violate any provision of this article, or who shall aid, assist or encourage the violation thereof, shall be fined as listed in the town fee schedule. The violation of any section of this article shall be considered a separate offense. All fines pursuant to this article shall be enforced and collected by the police department, payable to the town's general fund.
- c) Pursuant to state statute § 52-572, the parents or guardians of any unemancipated minor who willfully or maliciously causes damage to any property or appointments within any park or open space land shall be liable for such damage.

(Ord. No. 07-01, § 16, 7-10-2001)

**Secs. 13-15—13-20. Reserved.**

**Part B. - Rules and Regulations**

**Sec. 13-21. Additional rules and regulations.**

- a) *Parks.* Pursuant to § 8-13-2 of the charter of the town, the park and recreation commission may from time to time establish further rules and regulations for the use of such parks and the facilities therein, which rules shall be consistent with the ordinances of the town and the statutes of the state, and which rules shall have the force of law.
- b) *Open space lands.* Pursuant to § 8-12-2 of the charter of the town, the conservation commission may from time to time establish further rules and regulations for the use of such open space lands, which rules shall be consistent with the ordinances of the town and the statutes of the state, and which rules shall have the force of law.

(Ord. No. 07-01, §§ 17, 18, 7-10-2001)

**Charter reference**—Parks and recreation commission, §§ 8-13-1 –8-13-3.

**Sec. 13-22. Prohibited activities generally.**

The following activities are expressly prohibited in all parks and open space lands:

- 1) To pick flowers or foliage, or to cut, break, dig up, trample or walk upon, or in any way mutilate or injure, any tree, shrub, or other plantings. However, the park and recreation commission or the conservation commission, respectively, may approve specific maintenance for improvement activities that impact vegetation.
- 2) To mutilate, deface, paint or mark any structure or appointments of any character.
- 3) To post on any tree, stone, fence, post, wall, building, monument or other object therein, any bill, advertisement or inscription of any character unless authorized by the park and recreation commission or the conservation commission, respectively.
- 4) To sell articles or goods of any kind unless authorized by the park and recreation commission or the conservation commission, respectively, and the town council.
- 5) To light, kindle or use any fire, except in facilities provided therefor by the town, unless authorized by the park and recreation commission or the conservation commission, respectively.
- 6) To injure or disturb any animal or any bird, bird's nest or eggs. Hunting or trapping within parks or open space lands is expressly prohibited without the approval of the park and recreation commission or the conservation commission, respectively.
- 7) To discharge any fireworks or firearms without the approval of the park and recreation commission or the conservation commission, respectively.
- 8) To discard or leave waste paper, bottles, cans, or any other trash or litter of any kind, except in receptacles provided therefor. To discard household trash in any receptacle is prohibited.
- 9) To dump any material of any type at any location.
- 10) To loiter in restrooms or other shelter facilities.
- 11) To play or practice golf, except at Timberlin Golf Course.
- 12) To use, consume, dispense, sell, drink or have in one's possession beer, wine, liquors or other alcoholic beverages, or illegal drugs. The park and recreation commission or the conservation commission, respectively, and the town council may issue permits for such legal activities to individuals or organizations for designated town facilities. Organizations obtaining permits must also obtain permission from the liquor control commission if selling alcoholic beverages or if including alcohol in the purchase of the admission ticket.
- 13) To enter or leave such park or open space land except by designated approaches, paths, roads or trails.
- 14) To use threatening, abusive, insulting or indecent language or gestures.
- 15) To publicly demonstrate, except by prior permit of the park and recreation commission or conservation commission, respectively, and the town council. If such commissions and the town council are unable to meet prior to such demonstration, the mayor, and in his absence the deputy mayor, shall be authorized to issue such permit.

(Ord. No. 07-01, § 12, 7-10-2001)

**Sec. 13-23. Hours of operation.**

All parks and open space lands shall be open dawn to dusk, seven (7) days a week, except at other times designated by the park and recreation commission or the conservation commission, respectively. All parks and open space lands shall be closed to the public other than during these

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hours, and persons found within such parks and open space lands when closed shall be subject to arrest as provided by §13-14(b).  
(Ord. No. 07-01, § 2, 7-10-2001)

**Sec. 13-24. Motor vehicles and bicycles.**

- a) Motor vehicles of every kind, including, but not limited to, automobiles, trucks, motorcycles, bicycles and scooters, may be driven or parked in parks and open space lands, only in areas designated and posted for such purposes, except that town vehicles in service to the town shall have access to other areas.
- b) No commercial or industrial vehicle above the capacity of two (2) tons may be operated or parked in any park or open space land, except in service to the town, unless exception to this regulation is granted by the town manager.
- c) No motor vehicle as defined in § (a) of this section may be operated within any park or open space land at speeds in excess of fifteen (15) miles per hour or in any manner that endangers park occupants.
- d) Off-road motorized vehicles including but not limited to go-carts, minibikes, all-terrain vehicles (ATVs), trail bikes and snowmobiles are prohibited from all parks and open space lands.
- e) The riding of bicycles or skateboards, or the use of roller skates or inline skates, is prohibited on baseball diamonds, tennis and basketball courts, pool areas and picnic areas except those areas designated.

(Ord. No. 07-01, § 3, 7-10-2001)

**Cross reference**—Traffic and vehicles, chapter XVII of this code book.

**Sec. 13-25. Swimming.**

Swimming shall be permitted in parks and open space lands only in those areas designated for that purpose and only at such times as a lifeguard is on duty.

(Ord. No. 07-01, § 4, 7-10-2001)

**Sec. 13-26. Boating.**

Use of boats is prohibited from all parks and open space lands except those areas designated.

(Ord. No. 07-01, § 5, 7-10-2001)

**Sec. 13-27. Fishing.**

Fishing is permitted in parks and open space lands, except in those areas otherwise posted. All permitted fishing shall be subject to the provisions of §§13-14 and 13-23, and subject further to the statutes and regulations of the state pertaining to fishing.

(Ord. No. 07-01, § 6, 7-10-2001)

**Sec. 13-28. Waterfowl.**

No person shall feed waterfowl in any park or open space land.

(Ord. No. 07-01, § 7, 7-10-2001)

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**Sec. 13-29. Winter sports.**

Ice skating, sledding, tobogganing, skiing and other winter sports are permitted at parks and open space lands designated for such use and illuminated for such purposes.  
(Ord. No. 07-01, § 8, 7-10-2001)

**Sec. 13-30. Ballfields.**

All ballfields must be reserved in advance of scheduled games. Baseball shall be played only in parks or open space lands designated for such use. Softball may be played in other park areas where adequate and safe space is available. Softball shall not be played on Sage Baseball Field or Percival Baseball Field.  
(Ord. No. 07-01, § 9, 7-10-2001)

**Sec. 13-31. Timberlin Park picnic areas.**

The lower picnic areas at Timberlin Park are open on a first come, first served basis and must be shared with other people or groups when necessary. Reservations for the pavilion picnic area must be made through the town's recreational service department.  
(Ord. No. 07-01, § 10, 7-10-2001)

**Sec. 13-32. Dogs.**

Dogs are not allowed on playing fields, playgrounds, golf courses, tracks or outdoor courts. Dogs are allowed on all other ground areas, provided they are properly on a leash or lead seven (7) feet in length or less on school or other non-designated public property or on a leash or lead of twenty (20) feet in length or less on designated public property as defined in Sec. 3-2, which leash or lead is otherwise under the immediate control of their owner or keeper who is capable of restraining the dog at all times, and their excrement must be picked up, wrapped and disposed of.

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"Dogs are allowed on all other ground areas, provided they are properly: (a) on a leash or lead that is seven (7) feet or less in length, on school or other non-designated public property; or (b) on a leash or lead that is twenty (20) feet or less in length, on designated public property as defined in Sec. 3-2 of Chapter III. All dogs on leashes or leads as previously described must be under the constant control and restraint by their owner(s) or keeper(s). Further, dog excrement must be picked up, properly contained and disposed of by their owner(s) or keeper(s)."

(Ord. No. 07-01, § 13, 7-10-2001)

**Cross reference**—Animals, chapter III of this code book.

**Sec. 13-33. Horses.**

Horses and horseback riding are only allowed on designated trails in parks and open space lands.  
(Ord. No. 07-01, § 14, 7-10-2001)

**Cross reference**—Animals, chapter III of this code book.

**Sec. 13-34. Camping.**

Camping is permitted in designated areas of parks and open space lands with prior approval from the park and recreation commission or the conservation commission, respectively.

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(Ord. No. 07-01, § 15, 7-10-2001)

**Secs. 13-35—13-40. Reserved.**

### **Article 3. - Preservation of Timberlin Park**

#### **Sec. 13-41. Purpose and intent of article.**

- a) The purpose of this article is to preserve and maintain Timberlin Park, as defined in § 13-42, as a forested park for recreational activities other than golf.
- b) It is the intent of this article to ensure that activities including, but not limited to, walking, hiking, jogging, bicycling, playground activities, nature study, picnicking, soapbox derbies, and Fall Foliage Festivals can continue to take place in the area defined as Timberlin Park in § 13-42. Such activities shall be consistent with all existing ordinances.

(Ord. No. 6-00, § 1, ref. of 11-7-2000)

#### **Sec. 13-42. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Timberlin Park* means all town-owned land in Timberlin Park not presently used for golf course functions. This includes the town-owned land north of and including the access road that runs east to west from the Chamberlain Highway to the Timberlin Golf Course parking lot; the Sam DiPietro Grove area, including Marjorie Moore Road; the picnic pavilion area; and all undeveloped town-owned land surrounding DiPietro Grove.

(Ord. No. 6-00, § 2, ref. of 11-7-2000)

**Cross reference**—Definitions generally, chapter I § 1-2 in this code book.

#### **Sec. 13-43. Use for activities other than golf.**

It is established that Timberlin Park shall be preserved and maintained for recreational activities other than golf.

(Ord. No. 6-00, § 3, ref. of 11-7-2000)